

# City of Berkeley



LEGAL DEPARTMENT  
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## COMMON QUESTIONS AND ANSWERS ON MEASURE I, ELMWOOD COMMERCIAL RENT STABILIZATION AND EVICTION PROTECTION ORDINANCE

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### Who Is Covered?

UNIVERSITY OF CALIFORNIA

1. Q. When does the law take effect?  
A. It took effect when it was passed on June 8, 1982.
2. Q. Which area does it affect?  
A. The area bounded by Stuart Street on the north, Webster Street on the south, Piedmont Avenue on the east and Benvenue Avenue on the west. The attached map will help you determine whether you are located within the area affected by the law. Only properties on one side of the boundary streets are affected i.e., the south side of Stuart Street, the north side of Webster Street, the west side of Piedmont Avenue and the east side of Benvenue are within the area covered by the law.
3. Q. But I am not a "merchant". I lease office space. Is my unit covered?  
A. Yes, it is. The law applies to all commercial premises (both office and retail).
4. Q. Are landlords of affected units required to register their units with the City?  
A. No.

### Existing Rent Levels

5. Q. How can one tell if rent being charged is legal?  
A. You will have to apply the provisions of the law to your situation by first determining the amount of the "base rent" for your unit.

The way in which the base rent is computed varies depending upon the type of lease which was in effect on October 1, 1981.

The most common methods of determining base rent are described below.



a. "Ordinary" lease, fixed equal payments each period

If, on October 1, 1981, the lease in effect for your unit called for regular periodic payments of equal amounts, the "base rent" is the rent in effect on October 1, 1981. Example: the lease or rental agreement in effect on October 1, 1981, required the payment of \$600 per month rent and on October 1, 1981, the monthly rent was \$600. The "base rent" will be \$600.

b. Rent is paid regularly but the amount varies

If, on October 1, 1981, the lease in effect called for fixed rents of varying amounts, the "base rent" is the last payment under that lease. The "last payment" is the payment at the time the lease will expire, not the payment on the effective date of the ordinance.

Example: the rental agreement in effect on October 1, 1981, called for a percentage increase in rent equal to the cost of living (the Consumer Price Index) at certain specified times. In accordance with this provision of the lease the rent was increased from \$600 a month to \$640 a month effective January 1, 1982. The lease calls for another increase on July 1, 1982, to \$680 a month and the lease expires on December 31, 1982. The "base rent" for the unit is \$680 per month, i.e., the last increase authorized by the lease before it expires.

c. Rent based on gross sales

If the rent for your unit is based on gross sales, (even if a minimum rent is required), the base rent is computed by adding the rent paid for the final twelve months of the lease and dividing by 12. Example: the lease has been in effect for five years and will expire on December 31, 1982. The total rent which will be paid for the last 12 months of the lease, i.e., the year 1982, is \$7,200. The base rent is  $\frac{\$7,200}{12} = \$600$  per month.

12

CAUTION: At the end of the lease, a landlord can exercise an option to continue the gross sales method of determining rent unless the business no longer produces substantially the same types of goods that it did on October 1, 1981. If this option is exercised, he will not be entitled to get other upward adjustments of rent permitted under the new law. Thus future rent increases will be governed by the provisions of the lease.



6. Q. Does this mean that the rent set by existing leases will not be affected during the term of the lease?
- A. Yes, but the ordinance does limit those rent increases which exceed the increase in the Consumer Price Index for leases executed on or after October 1, 1981 by requiring that increases be limited to the prior rent plus the corresponding increase in the Consumer Price Index.
7. Q. I have an existing written agreement which allows me to raise the rent upon 30 days written notice and is from month to month. Can I raise the rent under this provision?
- A. No. A month-to-month tenancy will be subject to the law. Only agreements which set a fixed period of time for occupancy during which the rent is expressly regulated are considered "leases" for this purpose e.g., a one-year lease which sets the rent for the year at \$700 a month.
8. Q. I have not raised my tenant's rent for the last 20 months. Does my "base rent" have to be the rent which has been in effect for these 20 months?
- A. No. If you have not raised the rent since June 8, 1981, you are entitled to an increase of 5% per year for each year (rounded off to the nearest year) prior to June 8, 1982, that the rent was not raised. In this case you will be able to raise the rent 5% a year for two years and the adjusted rent will be the "base rent". The allowable 5% annual increase is not compounded and thus, in this case, the base rent will be the rent in effect on October 1, 1981, plus 10% of that amount.
9. Q. Is the maximum legal rent the "base rent"?
- A. No. The "base rent" is the starting point. The rent which is actually charged can exceed the amount of the "base rent" by the amount of the "allowable adjustments". A landlord can only pass through as rent those increases in costs which were incurred since the date the base rent was established or since the last allowable adjustment.

#### Rent Increases

10. Q. What are considered "allowable adjustments"?
- A. Costs of maintenance, operating expenses, property taxes, fees in connection with the operation of property, and improvements (amortized over the useful life of each improvement) are considered "allowable adjustments". The landlord and not the tenant must be the one who is required to pay this cost under the lease in order to raise the rent.



11. Q. How do I calculate the allowable adjustment for multiple units?

A. The allowable adjustment for a particular unit is that unit's proportionate share of increases in the periodic costs described in the answer to question 10, above.

12. Q. How often can I raise the rent?

A. As often as increases in your costs necessitate as long as these costs are "allowable adjustments".

13. Q. Well, my maintenance costs haven't gone up, but I am about to refinance the building. Can I increase the rent to pay for the increase in my monthly payments?

A. If the new loan will be for an amount larger than is necessary in order to pay off your old loan, you will not be able to raise the rent because you have higher mortgage payments.

14. Q. The loan I presently have on the building comes due in six months so I will have to get another loan at higher interest rates. Can I raise the rent because my new monthly payments will be higher?

A. Yes. You can raise the rent if you have to pay higher interest rates on the same indebtedness.

15. Q. Suppose I sell my property to someone else, will the buyer be able to raise the rent to cover his or her monthly payments?

A. It depends on the amount which is being financed. If the amount financed by the purchaser is the same as the amount financed by the seller when the seller originally acquired the premises, the purchaser can increase the rent to cover the higher interest rates on this amount. If the amount financed is larger, only those interest charges attributable to the original debt will justify a rent increase.

16. Q. Can I increase the rent to cover the costs of financing a capital improvement?

A. Yes, you can. The financing costs are added to the cost of the improvement itself and amortized over the useful life of the improvement.

17. Q. Suppose my tenant is willing to pay a higher rent than the law would otherwise allow? Is that legal?

A. No. The ordinance gives any "interested party" the right to challenge violations of the ordinance because the express purposes of the ordinance are to retain businesses which meet the needs of area residents and to keep the rents affordable for such businesses. The new law also prohibits the waiver of its provisions.



18. Q. My landlord pays the utilities. Can I be required to pay them now?
- A. No, unless the rent is reduced by a corresponding amount. This is true of any reduction in or elimination of services provided to the tenant.
19. Q. How can I tell if the rent increase I get is authorized by the ordinance?
- A. The landlord must give you 30 days prior written notice of the rent increase and this notice must specify the base rent, the costs which have risen, the amortization period used for any improvements, their amounts and the method by which these costs have been apportioned to the unit for which the rent is being increased.
20. Q. How can I tell if these figures are accurate?
- A. You may ask your landlord for an opportunity to examine any documents which substantiate the statements made in the notice. The landlord must allow you this opportunity within ten (10) days of your request, otherwise the notice will be deemed null and void. The failure to exercise your right to request this information, however, will not preclude you from challenging the increase.

#### Enforcement

21. Q. I understand that the Board of Adjustments will be enforcing Measure I. The rent I am presently charging my tenants is higher than the "base rent". Do I have to get permission from the Board of Adjustments to continue to charge this rent?
- A. No. The ordinance is basically "self-executing". This means that you may charge more than the "base rent" if the increased amount would be considered an "allowable adjustment". Either you or your tenants may seek a determination of the legality of the rent by the Board of Adjustments but you do not have to do so. Either the landlord or tenant may go to court directly to obtain a determination that the rent being charged is legal.
22. Q. Suppose I want to get a determination by the Board of Adjustments, what do I do?
- A. The ordinance gives the Board of Adjustments a "reasonable time" to adopt procedures for considering Measure I cases. No procedures have been adopted as yet. Until they are

adopted, no petitions will be considered by the Board. The parties, however, are free to obtain a determination from the court as to the validity of any rent increase.

### Eviction Protection


23. Q. I would be afraid to challenge a rent increase because I don't want to get evicted.
- A. Retaliation against you for the exercise of your rights under the new law is illegal and may subject the landlord to damages and payment of your attorney's fees. If your landlord files an eviction suit against you within six months of the time you exercise any right under the ordinance the landlord will have to prove that his/her dominant motive constituted good cause since evictions can only be for certain "good" causes specified in the ordinance.
24. Q. But, couldn't my landlord just evict me because my lease has expired?
- A. No, unless the landlord offered you a new lease on similar terms which you have rejected.
25. Q. If I don't have a lease, can my landlord just give me 30 days notice to evict me?
- A. No. The law requires that the landlord have good cause to evict you.
26. Q. Do I really need to look at the law to understand its provisions or is it sufficient to read these questions and answers?
- A. These questions and answers are only designed to give you a broad overview of the new law. It is essential that you consult the text of the law itself and/or seek the advice of a private lawyer if you have questions about how it applies to your situation. A copy of the law itself is attached.
27. Q. How can I find out when the Board of Adjustments will be adopting rules or procedures?
- A. Leave your name and address with the Zoning Office and you will be notified by mail when the subject is on the Board Agenda.



## AND EVICTION PROTECTION ORDINANCE







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(amortized over the useful life of each improvement). Increased costs due to increased principal or interest charges on a loan shall not be allowed, however, where such increased charges result from a larger loan being taken on the property (as contrasted with increased charges resulting from increases in prevailing rates of interest), whether due to refinancing by the landlord or purchase financing by a new landlord.

(ii) No allowable adjustment shall be based on increased costs incurred with the intent to evade any of the purposes of this Ordinance.

(iii) The allowable adjustment shall not include an increase in any cost which the tenant is already required to pay by the terms of the lease on the rental unit (such as property taxes and insurance).

(iv) Allowable adjustments shall become effective only if the landlord gives the tenant at least 30 days prior written notice that the landlord is imposing the adjustment and thereby raising the rent. Such notice shall be served according to the provisions of Code of Civil Procedure section 1162 or by any reasonable manner agreed upon by the parties. The notice must specify the base rent, the costs which have risen, including the amortization period used for any improvements, their amounts and the method of apportionment among units. The notice must advise the tenant that, upon the tenant's request within 10 days, the landlord will furnish documentary evidence of the base rent and increased costs. If such request is made, the landlord shall furnish such documentary evidence within 10 days after such request. If the landlord fails to furnish such evidence within 10 days, the notice of allowable adjustment shall become null and void. The tenant's failure to request such evidence shall not be deemed a waiver of his right to later contest the validity of the rent increase.

(d) If a rental unit is hereafter subdivided into 2 or more rental units, then the base rents of the new units shall be determined by apportioning the base rent of the old unit and any allowable adjustments among the new rental units according to the square footage of each unit. If two or more rental units are hereafter consolidated into one rental unit, then the base rent on the new unit shall be the total of the base rents and any allowable adjustments on the former units.

#### **Section 6. Extraordinary Rent Increase:**

- (a) If the application of this Ordinance, or any section or part thereof, would operate to violate the United States or California Constitution by denying a landlord a fair and reasonable return on investment or by confiscating the landlord's property, then such Ordinance, section, or part thereof shall apply to such landlord only to the extent that it does not deny him a fair and reasonable return on investment or confiscate his property.
- (b) If a landlord believes a rent greater than is allowed by Section 5 is necessary to provide him with a fair and reasonable return on investment, such landlord shall petition for and obtain a declaration from the Board of Adjustments that such rent is permitted by this section, before increasing rent pursuant to this section.
- (c) The Board of Adjustments shall enact regulations relating to its duties under this Section, including the definition of "fair and reasonable return on investment."

#### **Section 7. Services, Lease Provisions, and Assignments:**

- (a) No landlord shall reduce or eliminate any service to any rental unit covered by this Ordinance, unless a proportionate share of the cost savings due to such reduction or elimination is passed on to the tenant in the form of a decrease in rent. Nor shall any landlord delete or modify any provision of any existing or proposed lease or rental agreement, to the disadvantage of a tenant, unless the fair value of such deletion or modification is passed on to the tenant in the form of a decrease in rent.

- (b) No lease entered into after the effective date of this Ordinance may contain any provision prohibiting or limiting the tenant's right to assign the lease to a purchaser of the tenant's business, except that a lease provision may condition such assignment on the purchaser being at least as capable of complying with the lease as the tenant, and a lease provision may condition such assignment on the payment to the landlord of any necessary and reasonable expenses caused the landlord by the assignment. No other payment to the landlord shall be required or made for his consent to the assignment. Any consideration paid to the tenant, directly or indirectly, for the transfer (by assignment, sublease, or otherwise) of any lease or sublease of any rental unit or part thereof shall be treated as part of the rent for the first month of occupancy after the transfer and, as such, shall be subject to the limitations on rent imposed by this Ordinance.

#### **Section 8. Dispute Resolution:**

- (a) In case of any dispute over the meaning or application of any provision of this Ordinance (except Section 9), a landlord, tenant, or any other interested party or neighborhood organization may petition the Board of Adjustments for resolution of the dispute. Where the City Attorney determines that the City of Berkeley or any neighborhood thereof is an interested party, the City Attorney may petition or otherwise appear on behalf of such party.
- (b) Within a reasonable time after the effective date of this Ordinance, the Board of Adjustments shall adopt rules and regulations designed to assure prompt and fair resolution of disputes which may arise under this Ordinance. Such rules and regulations shall include provisions assuring that timely notices of petitions and hearings shall be given to all affected parties. Such rules and regulations may include a schedule of reasonable fees to cover the cost of dispute resolution, and may indicate which party shall be responsible for such fees. The Board of Adjustments may thereafter amend, repeal, and supplement its rules and regulations as it deems appropriate to assure prompt and fair resolution of disputes.
- (c) The Board of Adjustments may delegate its powers to hold hearings and render decisions under this section to groups of one or more members of the Board, or to hearing officers, with or without the right to appeal to the full Board, if such delegation will help to assure prompt and fair resolution of disputes.
- (d) In any case in which the validity of any proposed or actual rent increase under the Ordinance is in dispute, the burden of proof shall be on the landlord to establish all facts which show that the rent increase is allowed by this Ordinance.
- (e) The Board of Adjustments may issue orders to enforce its regulations and decisions.
- (f) The decision of the Board of Adjustments shall be final, subject to the right of any party to seek judicial review in any court of competent jurisdiction. Such review may be sought by any affected landlord, tenant, the City of Berkeley, or any interested party or neighborhood organization, whether or not such party participated in the Board of Adjustments proceedings.
- (g) The Board of Adjustments may, from time to time as it deems appropriate, adopt regulations which interpret various provisions of this Ordinance.
- (h) If the Board of Adjustments becomes aware that any purpose of this Ordinance is being evaded or that it is not operating fairly toward landlords, tenants, or the community, the Board shall promptly notify the City Council and may recommend that appropriate amendments to this Ordinance be placed on the ballot.
- (i) The Board of Adjustments shall have the powers and duties necessary to fulfill the purposes of this Ordinance.



## ORDINANCE NO. 5468-N.S.

### ELMWOOD COMMERCIAL RENT STABILIZATION AND EVICTION PROTECTION ORDINANCE

The people of the City of Berkeley do ordain as follows:

#### Section 1. Title:

This Ordinance shall be called the Elmwood Commercial Rent Stabilization and Eviction Protection Ordinance.

#### Section 2. Purposes:

The purposes of this Ordinance are to protect commercial tenants in the Elmwood district from rent increases which are not justified by landlord's cost increases; to enable those tenants to continue serving residents of the Elmwood district without undue price increases, expansion of trade (which may exacerbate parking problems), or going out of business; and to test the viability of commercial rent stabilization as a means of preserving businesses which serve the needs of local residents in Berkeley neighborhoods, outside the downtown business district.

#### Section 3. Scope:

This Ordinance shall apply to all commercial premises (both office and retail), rented or available for rent, only in the Elmwood district of the City of Berkeley. The boundaries of this district are as follows: Stuart Street on the north, Webster Street on the south, Piedmont Avenue on the east, and Benvenue Avenue on the west.

#### Section 4. Definition:

In this Ordinance, the following words and phrases have the following meanings:

- (a) Landlord: Any owner, lessor, sublessor, or other person entitled to receive rent for the use or occupancy of any rental unit, or an agent thereof; provided, however, that the word "landlord" shall not include any governmental agency.
- (b) Rent: Any consideration (including any deposit, bonus, or gratuity) demanded or received in connection with the use or occupancy of any rental unit.
- (c) Rental unit: Any property, building, structure, or part thereof, or land appurtenant thereto, which is covered by Section 3 of this Ordinance, together with all services connected with the use or occupancy thereof.
- (d) Services: Those services and facilities which enhance the use of the rental unit, including but not limited to repairs, replacement, maintenance, painting, heat, hot and cold water, utilities, elevator service, security devices and patrols, furnishings, storage, janitorial and landscaping services, refuse removal, insurance protection, parking spaces, and services to and facilities in common areas of the building or parcel in which the rental unit is located.
- (e) Tenant: A tenant, subtenant, lessee, sublessee, or any other person entitled to the use or occupancy of any rental unit.

- (f) Consumer Price Index: The All Items Consumer Price Index for All Urban Consumers, San Francisco-Oakland, California, as published by the United States Department of Labor, Bureau of Labor Statistics.

#### Section 5. Maximum Rent:

- (a) No landlord of any rental unit covered by this Ordinance shall request, demand, receive, or retain more than the maximum rent allowed by this section. The maximum rent shall be the "base rent" plus any "allowable adjustments."
- (b) "Base rent": Except as provided herein, base rent shall be the lawful periodic rent in effect on October 1, 1981 (the approximate time the current campaign for commercial rent stabilization in the Elmwood district began).
  - i) If, on October 1, 1981, the rental unit was held under a lease which provided for fixed rental payments of varying amounts (e.g., rents escalating with a Consumer Price Index), then the base rent shall be the amount of the final lawful periodic rental payment required by such lease.
  - ii) If, on October 1, 1981, the rental unit was held under a lease which provided rental payments whose amounts were determined by gross sales, in whole or in part (whether or not there is a fixed minimum rent), the monthly base rent shall be the total amount of rent lawfully payable for the final 12 months of such lease, divided by 12, unless the landlord notifies the tenant in writing at least 30 days before the lease expires that the landlord chooses to continue the same provisions for determining rent as were provided by such lease. If the landlord so notifies the tenant, then such provisions shall continue, provided, however, (1) that the rent shall not be subject to the "allowable adjustment" allowed by this section, (2) that the landlord may thereafter abandon this method of determining rent and use the other method provided by this subsection ((5)(b)(ii)) to determine the base rent (adding any "allowable adjustments" to determine the "maximum rent"), but only upon 90 days prior written notice to the tenant, and (3) that the landlord must abandon the gross sales method of determining rent and shall use the other method provided by this subsection ((5)(b)(ii)) to determine the base rent (adding any "allowable adjustment" to determine the "maximum rent"), if the rental unit fails to sell or produce substantially the same types of goods or services to the community as it did on October 1, 1981.
  - (iii) If, on the date this Ordinance becomes effective, the rental unit was held under a lease or rental agreement providing for fixed rental payments, and such rent has not been raised in the 12 months prior to that date, then the base rent shall be increased by the percentage of base rent which equals the following amount: 5% times the number of years (rounded off to the nearest year) between the date the rent on the rental unit was last raised (before enactment of this Ordinance) and the date this Ordinance becomes effective.
  - (iv) The base rent for any rental unit newly constructed after October 1, 1981, or not rented on October 1, 1981, shall be the lawful periodic rent actually charged for the first 12 months after the unit is rented. This method of establishing base rent shall not be allowed, however, if the parcel on which such new unit is built contained, on October 1, 1981, a rental unit covered by this Ordinance, which a newly constructed unit has replaced.
- (c) "Allowable adjustments":
  - (i) The allowable adjustments shall be the unit's proportionate share of increases in periodic costs, to the landlord, since the end of the period used for determining the base rent under subsection (b), or since the last allowable adjustment, whichever is later. Such costs shall include costs of maintenance and operating expenses, property taxes, fees in connection with the operation of the property, and improvements



## Section 9. Evictions:

In any action to evict any tenant from any rental unit covered by this Ordinance, the landlord shall plead and prove that the landlord is in compliance with Section 5(a) of this Ordinance, and that the action is being brought for one or more of the following reasons, which were stated in the notice of termination:

- (a) the tenant has failed to pay the lawful rent to which the landlord is entitled, and failed to comply with a valid notice to pay or quit served pursuant to Code of Civil Procedure section 1161;
- (b) the tenant has substantially violated an obligation imposed by the lease or rental agreement (other than an obligation to surrender possession at the end of a term or upon notice) and has failed to cure such violation within 10 days after having received written notice thereof from the landlord;
- (c) the tenant is committing or permitting to exist a nuisance in the building or parcel, or is causing a substantial interference with the comfort, safety or enjoyment of the building or parcel by the landlord or other tenants;
- (d) the tenant is using the rental unit for some illegal purpose;
- (e) the tenant, who had a lease or rental agreement whose term has expired, has refused (after receiving a request in writing) to execute a written extension or renewal thereof for a further term of like duration, containing provisions which are not inconsistent with this Ordinance and are materially the same as those in the previous lease or rental agreement;
- (f) the tenant has refused to allow the landlord reasonable access to the premises to make necessary repairs or improvements, or to show the rental unit to a prospective purchaser, mortgagee, or tenant;
- (g) the landlord in good faith seeks to recover possession in order to remove the rental unit from commercial use, after having obtained all the necessary permits to do so; provided, however, that if the landlord evicts for this reason and, within one year thereafter, the rental unit is being used for any commercial use, it shall be presumed that the landlord's stated purpose in evicting was false, in any action by the tenant against the landlord for abuse of process or malicious prosecution of a civil action;
- (h) the landlord in good faith seeks to recover possession in order to repair code violations or improve the premises, after all necessary permits have been obtained, if it is not feasible to perform such repairs or improvements while the tenant remains in possession; provided, however, that when the repairs or improvements are completed, the landlord shall so notify the tenant and allow the tenant 30 days in which to decide whether or not to return to the premises.

## Section 10. Retaliation:

No landlord shall in any way retaliate against any tenant for the tenant's assertion or exercise of any right under this Ordinance. Such retaliation shall be a defense in any action to evict the tenant and shall be subject to suit for actual and punitive damages, injunctive relief, and attorney's fees. The tenant need not exhaust any remedy before the Board of Adjustments prior to raising such defense or filing such suit. In any action wherein such retaliation is at issue, where the action was filed within 6 months of the tenant's assertion or exercise of rights, the burden shall be on the landlord to prove that the dominant motive for the act alleged to be retaliatory was some motive other than retaliation.

## Section 11. Remedies:

- (a) If a landlord attempts to increase rent under Section 5(c), and any of the information in the notice of rent increase or supporting documentary evidence is false, inaccurate, misleading, or incomplete in any material way, then the notice of rent

increase shall be null and void. If, in addition, it is proved that the landlord acted knowingly and willfully in providing such false, inaccurate, misleading or incomplete information or evidence, then the landlord shall pay the tenant, as a penalty, three times the amount of rent demanded in the notice of rent increase.

- (b) Any affected tenant shall recover actual damages whenever the landlord receives or retains any rent in excess of the maximum amount allowed under this Ordinance, and whenever the landlord violates any eviction provision of this Ordinance. If, in addition, it is proved that such act was in bad faith, the landlord shall pay the tenant, as a penalty, three times the actual damages.
- (c) If a tenant fails to bring a civil or administrative action within 120 days of any violation of this Ordinance, then such action may be brought on the tenant's behalf by the City of Berkeley or any interested party or neighborhood organization, which shall retain one-half of any amount awarded in such action or received in settlement of such action.
- (d) No exhaustion of the administrative remedies provided in section 8 shall be required as a precondition to invoking any remedy provided by this section.
- (e) In any action wherein any party succeeds in obtaining any remedy, in whole or in part, under this section, such party shall be awarded reasonable attorney's fees. If a party asserts a remedy under this section and fails to obtain any relief whatsoever, then the prevailing party shall be awarded reasonable attorney's fees.

## Section 12. Waiver:

No provision in any lease, rental agreement, or agreement made in connection therewith, which waives or diminishes any right of the tenant under this Ordinance, is valid.

## Section 13. Application to Pre-existing Leases:

- (a) This Ordinance shall not operate to change any provision in any fixed-term (as opposed to month-to-month) lease executed before October 1, 1981, and in effect on the date this Ordinance is enacted. Whenever such a lease expires, however, this Ordinance shall thereupon apply to the affected rental unit; provided, however, that if such lease is renewable at the landlord's or tenant's option, and such option is exercised, this Ordinance shall not apply to the rental unit until the renewed lease expires.
- (b) Notwithstanding the provisions of subsection (a) above, any lease in effect on the date this Ordinance is enacted, which lease was executed since one year prior to October 1, 1981, which increased the rent over the prior rent by more than the increase in the Consumer Price Index from the date the prior rent became operative to the date such lease was executed, shall have its rent reduced immediately to the prior rent, plus such increase in the Consumer Price Index. The purpose of this subsection is to preserve certain businesses which have recently received such high rent increases that they would—but for this subsection—find it necessary to take steps contrary to the purposes of this Ordinance, as set out in Section 2. This subsection shall not operate to deprive any landlord of a fair return on investment.

## Section 14. Partial Invalidity:

If any provision of this Ordinance or any application thereof is held invalid, such invalidity shall not affect any other provision or application of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

## Section 15. Effective Date:

This Ordinance shall become effective on the date it is enacted.



U.C. BERKELEY LIBRARIES



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